

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and this agency's Public Participation Guidelines that the Chesapeake Bay Local Assistance Board intends to consider amending regulations entitled: **9 VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations** (formerly VR 173-02-01). The purpose of the proposed action is to amend these regulations to accomplish the following:

1. Achieve greater clarity in all regulatory language to minimize confusion and misinterpretation.
2. Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations, while still providing for maximum water quality protection. Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:
 - a. Stormwater management criteria;
 - b. Erosion and sediment control criteria;
 - c. Septic system criteria;
 - d. Agricultural criteria
 - e. Silvicultural criteria; and
 - f. Criteria regarding revision of Comprehensive Plans and Zoning Ordinances
3. Improve vegetative buffer area criteria to provide greater flexibility and consistency with riparian forest buffer policies being developed by the Executive Council of the regional Chesapeake Bay Program.
4. Improve agricultural conservation criteria to correct the inability to meet the conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.
5. Add criteria regarding a board/department process to review local program implementation for consistency with the regulations.

Need: The Chesapeake Bay Preservation Act was passed by the Virginia General Assembly in 1988 and final regulations for its implementation were adopted in November 1990. The Chesapeake Bay Local Assistance Board, established to implement the Act in partnership with Tidewater Virginia local governments, anticipated from the outset that this kind of complex new state-local partnership program would require review and adjustment at some point to maximize its effectiveness. This amendment process is proposed to address recommendations resulting from two stakeholder evaluations of the regulations (1992 and 1994), a legislative study of state stormwater management programs (1993-94), and two separate agency reviews (1995) mandated by the General Assembly and the Governor.

Subject Matter and Intent: The list of general issues above is the result of the several studies mentioned in the previous paragraph. The Board desires to accomplish a comprehensive amendment of the regulations to clarify the meaning of various provisions, provide greater implementation flexibility, and reduce costs for both local governments and members of the public who must comply with the state/local requirements.

Estimated Impacts: Tidewater Virginia local governments will experience the most immediate impact of an amendment of these regulations, because each of these local governments has adopted a local program, including adoption or amendment of various ordinances, to implement the provisions of these regulations. Amendments to the regulations will result in each of the 84 Tidewater localities having to enact at least some amendments of its local ordinance(s) and program. However, a number of the changes under consideration have been recommended by the local governments themselves. The intention of the amendments is to make the process of complying with these state-mandated local programs more reasonable and cost-efficient to implement and follow without sacrificing water quality protection. Apart from this program, such local ordinance amendments are enacted routinely by local governing bodies for similar reasons.

Many of the specific changes under consideration should result in clearer, simpler, more flexible, non-conflicting program requirements. These changes are intended and expected to make local programs easier and more cost-efficient to implement. The Board expects that, generally, net costs to the private sector complying with these requirements will, at worst, remain at current levels and, at best, diminish somewhat. However, the proposals under consideration at this time are not specific enough to allow for refined estimates of economic impact.

Alternatives: The Board could leave the current regulation in place without change. However, this would result in continued confusion regarding certain definitions and requirements and continued conflict or unnecessary redundancies with some provisions of certain related state and federal laws and regulations.

Comments: The Board requests written comments from interested persons regarding its purpose as stated above. Comments are requested regarding the costs and benefits of the intended proposals as well as the stated alternatives or other alternatives. Comments also are invited regarding additional regulatory issues the public believes the Board should consider. The Board intends to hold two public information meetings during this comment period, as follows:

1. Classroom 127, Marshall-Wythe School of Law, College of William and Mary, Williamsburg, Virginia, 7:00 pm, Wednesday, June 19, 1996
2. Theatre, City Public Library, Fredericksburg, Virginia, 7:00 pm, Thursday, June 27, 1996

As well, the Board intends to hold three public hearings on the proposed regulation after amendment language is published for public comment. Dates, times and locations of those public hearings will be specified in the Notice of Public Comment.

Statutory Authority: ' ' 10.1-2103 and 10.1-2107 of the Code of Virginia.

Written comments may be submitted until 4:00 p.m. on Friday, June 28, 1996.

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